



UNITED STATES PATENT AND TRADEMARK OFFICE

0105US-4122
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILED DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,054	04/01/2008	Christopher J Soares	0105US-UTL2	5466
44638	3590	02/11/2011	EXAMINER	
Intellectual Property Department Amylin Pharmaceuticals, Inc. 9360 Towne Centre Drive San Diego, CA 92121			HOWARD, ZACHARY C	
		ART UNIT		PAPER NUMBER
		1646		
		NOTIFICATION DATE		DELIVERY MODE
		02/11/2011		ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@amylin.com
trademarks@amylin.com



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

APPLICATION NO./CONTROL NO. 10589054	FILING DATE 4/1/08	FIRST NAMED INVENTOR/PATENT IN REEXAMINATION SOARES ET AL.	ATTORNEY DOCKET NO. 0105US-UTL2
---	-----------------------	---	------------------------------------

EXAMINER
ZACHARY C. HOWARD

ART UNIT 1646	PAPER 20110204
------------------	-------------------

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 C.F.R. § 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 C.F.R. §§ 1.821-1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures. Applicant must comply with the requirements of the sequence rules (37 CFR 1.821 - 1.825).

The 5/12/10 Office Action, at pg 2-3 contained a section titled "Sequence Compliance" that indicated lack of sequence compliance for the following reasons:

"Specifically, "formula I" in claim 5, and in the specification at ¶ [0087] (as published), is identified as SEQ ID NO: 34, but does not match SEQ ID NO: 34 in the Sequence Listing (filed 6/19/08). Specifically, in SEQ ID NO: 34, residues 2 and 7 are identified as "any amino or not present", but in "formula I", residues 2 and 7 are only identified as "X" and "Y"."

Applicants' 11/16/10 amendments to the claims, once entered, will render this moot with respect to claim 5 (which is indicated as being canceled). However, SEQ ID NO: 34 in the Sequence Listing still does not match SEQ ID NO: 34 as shown in the specification at page 5, as described above.

In the 11/16/10 response, Applicants argue that the present sequence listing does comply with the sequence rules.

Applicants argue that X and Y are not amino acids and thus SEQ ID NO: 34 cannot identify residues 2 and 7 as X and Y, respectively. Applicants argue that the specification at paragraph 90, 109 and 139 indicates that residue 2 (X) and 7 (Y) can be any amino acid.

Applicants' arguments have been fully considered and are found persuasive in part. Paragraphs 109 and 139 of the specification teach X and Y residues that are specific to other sequences (e.g., SEQ ID NO: 5) and do not refer to SEQ ID NO: 34. Only paragraph 90 describes the X and Y for SEQ ID NO: 34. However, it is found persuasive that "Any amino acid" as used in the Sequence Listing is sufficient to describe X and Y of SEQ ID NO: 34 of the specification, in view of the teachings of paragraph 90. However, nowhere does paragraph 90 (or anywhere else in the specification) indicate that X and Y of SEQ ID NO: 34 can be "not present". Thus, the Sequence Listing must be amended to remove "or not present" from residues 2 and 7 of SEQ ID NO: 34.

APPLICANT IS GIVEN ONE MONTH FROM THE DATE OF THIS LETTER WITHIN WHICH TO COMPLY WITH THE SEQUENCE RULES, 37 C.F.R. §§ 1.821-1.825. Failure to comply with these requirements will result in ABANDONMENT of the application under 37 C.F.R. § 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 C.F.R. § 1.136. In no case may an applicant extend the period for response beyond the six month statutory period. Direct the response to the undersigned. Applicant is requested to return a copy of the attached Notice to Comply with the response.

The addresses below are effective 5 June 2004. Please direct all replies to the United States Patent and Trademark Office via one (1) of the following:

1. Electronically submitted through EFS-Web (<<http://www.uspto.gov/ebc/efs/downloads/documents.htm>>), EFS Submission User Manual - ePAVE)

2. Mailed to:

Mail Stop Sequence
Commissioner for Patents
P.O. Box 22313 1450
Alexandria, VA 22313 1450

3. Hand Carry, Federal Express, United Parcel Service or other delivery service to:

U.S. Patent and Trademark Office
Mail Stop Sequence
Customer Window
Randolph Building
401 Dulaney Street
Alexandria, VA 22314

Any inquiry concerning this communication should be directed to Zachary C. Howard at telephone number (571)272-2877. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary B. Nickol, can be reached on (571)272-0835.

/Bridget E Bunner/
Primary Examiner, Art Unit 1647